

Appl. No.: 10/693,154
Reply to Office Action dated October 10, 2006

REMARKS/ARGUMENTS

The Applicant would like to thank the Examiner for conducting a telephonic interview on March 16, 2007 with the Applicant's representatives, Walter Scott and Victoria Ford. During the interview, the Applicant's representatives discussed with the Examiner proposed amendments to the claims of the application. The Applicant's representatives further discussed the Schwartz *et al.* reference and pointed out how the reference is different from the disclosed subject matter of the present invention. The amendments provided herein are reflective of the substance of the interview.

The Applicant would also like to acknowledge that the Examiner found that Claims 1, 4-7, and 11 are allowable.

The Office Action of October 10, 2006 rejected Claims 2-3, 8-10 and 12-17. (Please note that the Office Action Summary indicates that Claims 1-3, 8-10 and 12-17 are rejected; however, the Detailed Action indicates that Claim 1 is allowed.) Specifically, the Examiner rejected Claims 8-10, 12, 14-15 and 17 as anticipated by Schwartz *et al.* The Examiner also rejected claims 2-3, 13 and 16 as rendered obvious by Schwartz *et al.*

The Applicant respectfully traverses each of the Examiner's prior art grounds for rejection and respectfully submits that the Examiner has not set forth a *prima facie* showing of either anticipation or obviousness. Therefore, each of the present rejections must be withdrawn.

Support for the Amendments

This response amends Claims 2, 8, 10, 16 and 17 and adds new Claims 18 and 19. The Applicant respectfully submits that the amendments and newly-added claim are well supported by the specification as originally filed.

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The amendment to Claim 2 further points out and more distinctly claims the subject matter the Applicant regards as his invention. As amended, Claim 2 now recites "A method of adjusting the vertical position of a first armrest consisting of." Claim 2 additionally recites "raising the distal end of the armrest to an altitude greater than the altitude of the medial end of said armrest, wherein the medial end of said armrest is mounted to a linkage arm." The Applicant respectfully submits that this amendment does not change the scope of the claim because this amendment merely expressly states a limitation that was inherent in the claimed subject matter. Furthermore, the specification, as originally filed supports this limitation. For example, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, describe an embodiment of the armrest invention in which a first armrest 600 is attached at its medial end to linkage arm 625. Thus, the Applicant respectfully submits that the amendment to Claim 8 is adequately supported by the specification as originally filed.

The amendment to Claim 8 also further points out and more distinctly claims the subject matter the Applicant regards as his invention. As amended, Claim 8 now recites "said parallel arm mechanism comprising a first and a second link mounted between said back support of said chair and said first armrest body." The Applicant respectfully submits that this amendment does not change the scope of the claim because this amendment merely expressly states a limitation that was inherent in the claimed subject matter.

Moreover, the specification, as originally filed, amply supports this limitation. For example, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, describe an embodiment of the armrest invention in which the parallel arm mechanism comprises two bars 625 and 630. Thus, the Applicant respectfully submits that the amendment to Claim 8 is adequately supported by the specification as originally filed.

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The amendment to Claim 10 additionally further points out and more distinctly claims the subject matter the Applicant regards as his invention. Claim 10 now specifies that "a first armrest body" is mounted on an end of said armrest support arm and that the "armrest support arm" comprises "two linkage arms mounted between said bracket and said first armrest body." The Applicant respectfully submits that the specification, as originally filed, amply supports this limitation. For example, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, describe an embodiment of the armrest invention in which the armrest is composed of two bars 625 and 630. Thus, the Applicant respectfully submits that the amendment to Claim 10 is adequately supported by the specification as originally filed.

The amendment to Claim 16, like the amendment to Claim 10, further points out and more distinctly claims the subject matter the Applicant regards as his invention. Claim 16, as amended, specifies that a "first armrest body" is raised. For the reasons stated above, the Applicant respectfully submits that the amendment to Claim 16 is adequately supported by the specification as filed.

The amendment to Claim 17, similar to the amendment to Claim 10 and 16, further points out and more distinctly claims the subject matter the Applicant regards as his invention. Claim 17, as amended, specifies that "a first armrest support, comprising two linkage arms, each having a first portion rotably mounted within said bracket cavity and each having a second portion extending from said bracket." For the reasons stated above, the Applicant respectfully submits that the amendment to Claim 17 is adequately supported by the specification as filed.

New Claim 18 is based on prior Claim 2, but further points out and more distinctly claims the subject matter the Applicant regards as his invention. New Claim 18 specifies that the "armrest is connected to a bracket mounted on the back of said chair by two linkage arms." The

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Applicant respectfully submits that the specification, as originally filed, amply supports this limitation. For example, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, describe an embodiment of the armrest invention in which the armrest is composed of two bars 625 and 630. Thus, the Applicant respectfully submits that New Claim 18 is adequately supported by the specification as originally filed.

New Claim 19 is also based on prior Claim 2, but further points out and more distinctly claims the subject matter the Applicant regards as his invention. New Claim 19 specifies that the "armrest body mounted on the distal end of an armrest linkage [is pivoted] about a pivot at the interface of said armrest body and said armrest linkage." The Applicant respectfully submits that the specification, as originally filed, amply supports this limitation. For example, Figures 11 and 12, and the corresponding discussion of these Figures in paragraphs 0140 through 0146, specifically paragraph 0141, describe an embodiment of the armrest invention in which the armrest is composed of two pivot joints 615 and 620. Thus, the Applicant respectfully submits that New Claim 19 is adequately supported by the specification as originally filed.

In sum, the Applicant respectfully submits that each of the amendments is well supported by the application as originally filed.

The Rejections alleging Anticipation

As noted above, in the October 10, 2006 Office Action, the Examiner rejected Claims 8-10, 12, 14-15 and 17 as anticipated by Schwartz *et al.* For the followings reasons, the Applicant respectfully traverses the Examiner's rejections.

The Schwartz et al. Reference

The Applicant respectfully submits that the Schwartz *et al.* reference does not teach the subject matter of Claims 8-10, 12, 14-15 and 17.

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Schwartz *et al.* does not disclose the subject matter of Claims 8-10, 12, 14-15 and 17

The Applicant respectfully submits that Schwartz *et al.* does not disclose the subject matter of Claims 8-10, 12, 14-15 and 17. Specifically, the Applicant asks the examiner to reconsider the arguments made by the Applicant in response to the Office Action dated May 16, 2006 and incorporated here. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987); MPEP § 2131. For the reasons expressed below, the Schwartz *et al.* reference does not anticipate the claimed invention because it does not set forth each and every element of the present invention.

Claims 8-10, 12, 14-15 and 17, as amended, each expressly require two links (arms or bars) (on each side of the user) connecting the bracket mounted on the support for the back to the support for each armrest body. This structure is illustrated, among other places, in Figure 11. Specifically, support for the back 113 contains the first bracket structure. Bars 625 and 630 each connect to the support for the back 113 bracket. Bars 625 and 630, at their other ends (615 and 620) connect the armrest body 610.

In marked contrast to the claimed subject matter, the Schwartz patent has a single bar connecting the "bracket on the support for the back" to the "armrest body," as evidenced by Schwartz Figure 1. For this reason alone, Schwartz *et al.* does not anticipate the subject matter of Claims 8-10, 12, 14-15 and 17.

The Schwartz disclosure provides for a maximum of two bars, one on each side of the chair. In contrast, the invention of Claims 8-10, 12, 14-15 and 17 has two bars connecting the "bracket on the support for the back" to the "armrest body" on the left side and another two bars on the right side. Thus, the claimed subject matter has at least twice as many bars as Schwartz

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discloses on a side of the user. Because Schwartz does not set forth at least two bars on either side of the user, it does not describe each element of the claimed subject matter. Consequently, the Examiner has not made a *prima facie* showing that the claimed subject matter is anticipated.

Specifically, in regards to Claim 8, Schwartz does not teach a parallel (aka a parallelogram) mechanism as set forth in Claim 8. The armrest bodies (pads) in Schwartz remain parallel to the seat of the chair by adjusting the armrest height by turning knob 51. However, upon turning knob 59, the armrest bars are rotably mounted such that the armrest bodies (pads) are no longer parallel to the seat of the chair. In contrast to Schwartz, Claim 8 provides a chair in which the parallel arm mechanism permits the armrest body to be substantially always parallel to the seat of said chair. Furthermore, the parallel mechanism of Claim 8 comprises a first and second link extending between the back of said chair and a first armrest body. Because the Schwartz chair has only one link extending from the back of the chair to each armrest body, the Schwartz chair does not describe a parallel arm mechanism that anticipates Claim 8.

In view of the above-noted differences between Schwartz's disclosure and the claimed subject matter, the Applicant respectfully submits that the Examiner has not made a *prima facie* showing of anticipation. Rather, the cited reference discloses something completely different from that which is claimed by the present application. Indeed, because of these differences, the Examiner has not made a *prima facie* showing of anticipation. Consequently, the Applicant respectfully submits that the present rejection must be withdrawn.

The Rejections alleging Obviousness

The Examiner rejected Claims 2-3, 13 and 16 as unpatentable (as obvious) over Schwartz *et al.* The Applicant respectfully traverses the Examiner's position, and submits that the significant differences between the claimed method and the devices disclosed by the cited art

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establish that the cited art does not render the claimed subject matter obvious. A *prima facie* case of obviousness exists where (1) there is a suggestion or motivation to modify the reference, (2) there is a reasonable expectation of success, and (3) the prior art reference teaches or suggests all the claim limitations. See MPEP 706.02(j). In light of the differences mentioned above, the Schwartz *et al.* reference fails to provide any motivation to modify the reference in such a way to come up with the claimed invention and does not teach or suggest all the claim limitations. In addition to the reasons asserted here supporting non-obviousness, the Applicant also incorporates its response to the May 16, 2006 Office Action regarding the obviousness rejection.

Each of the independent claims in this group (*i.e.*, Claims 2, 13 and 16) call for, in the language of Claim 16, "raising the end of the armrest closest to a user's fingertips to an altitude greater than the altitude of the end of said armrest closest to said user's elbow; repositioning said armrest; and releasing said distal end in a manner effective to return said distal end to an altitude substantially the same as said medial end of said armrest." The amendment to Claim 2 clarifies that the medial end of the armrest is mounted to a linkage arm, and when the distal end of the armrest is raised, it is raised to a point higher than the medial end of the armrest.

If this method were tried on the chair of Schwartz *et al.*, the method would fail and thus Schwartz *et al.* teaches away from the subject matter claimed by Claims 2-3, 13 and 16. Upon using the chair as taught by Schwartz *et al.*, a person of ordinary skill in the art would not know that the vertical position of the armrest can be adjusted by "releasing said distal end in a manner effective to return said distal end to an altitude substantially the same as said medial end of said armrest." To do so with the Schwartz chair would cause the armrest to fall below the seat of the chair. Instead, to change the vertical position of the armrest of the Schwartz chair, the user must get out of the chair and retighten knob 59, which had been previously loosened in order to raise

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bars 56 and 57. Because use of the Schwartz chair does not teach one of ordinary skill in the art that the vertical position of the chair can be adjusted by a final step of releasing the distal end of the armrest, Claims 2-3, 13 and 16 are not obvious. The Examiner has shown nothing in the Schwartz *et al.* reference that suggests any modifications that would lead to the claimed invention.

Furthermore, the armrests of the Schwartz chair cannot be released but must be held in the desired position with one hand, while the user tightens knob 59 with the other hand. Releasing the distal end of the armrests in the Schwartz chair would make it impossible to ever achieve the desired vertical position. Instead, the armrest of the Schwartz chair must be held stationary at the optimal position until knob 59 is tightened. If the method steps of Claims 2-3, 13 and 16 were incorporated within the use of the invention taught by Schwartz, then the Schwartz chair would be made unsatisfactory for its intended purpose. Consequently, there is nothing in the Schwartz patent that would motivate one of ordinary skill in the art to develop the claimed methods.

Quite unlike the use of the Schwartz chair, the user of a chair whose operation is described in claims 2, 3, 13 and 16 can adjust the vertical position of the armrest while remaining seated in the chair. Furthermore, the user of this claimed method has the option to adjust the armrests at different times or simultaneously.

Moreover, the Schwartz chair does not provide for a pivot located at the medial end of the armrest separate from a pivot located at the back of the chair. However, the claimed invention includes such two separate pivots (615 and 620) on each side of the chair, as evidenced in Figure 26. Because the Schwartz *et al.* reference does not suggest such a modification nor teach or suggest this limitation, the claimed invention is not obvious.

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In other words, the Schwartz *et al.* reference neither teaches nor suggests the claimed subject matter. The Applicant submits that the use of the Schwartz chair cannot incorporate the claimed method because it would be impossible and/or make the chair unusable. Therefore, the claimed method is not practiced when the armrests of the Schwartz chair are adjusted.

Additionally, the Schwartz *et al.* reference provides no motivation to modify the chair in a way that would make the claimed invention obvious. Thus, the Examiner has not made a *prima facie* showing that the claimed method is made obvious by the use of the chair of Schwartz *et al.*

Moreover, the Examiner has not clearly articulated which portions of the reference support the obviousness rejection as instructed under MPEP § 2144.08. Consequently, the present rejection must be withdrawn.

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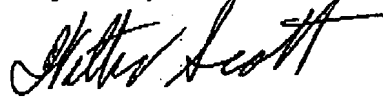
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CONCLUSION

The Applicant petitions 37 CFR § 1.136(a) for an extension of time to respond to the Office Communication of October 10, 2006. Any fee required by this communication (including fees for addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

In view of the present amendments and remarks, the Applicant respectfully submits that the application is now in condition for allowance and respectfully solicits the same at an early date. Nonetheless, if the Examiner has any questions, he is encouraged to call the undersigned at (212) 210-9518.

Respectfully submitted,

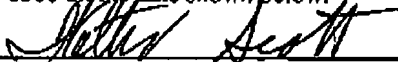


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April 10, 2007
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